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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 JEFFREY SIMON,

12 Plaintiff,

13 VS.

14 UNUM LIFE INSURANCE
COMPANY OF AMERICA AND THE
15 LIPMAN COMPANY DBA OPTI-
SOURCE;

16 Defendants.
17

CASE NO: 07-CV-02213 WDB

STIPULATION AND [PROPOSED]
ORDER FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT

18 The parties, by and through their respective attorneys, hereby stipulate as follows:

19 Whereas, on or about April 27, 2007, plaintiff filed a Complaint in this action,
20 naming as a defendant "The Lipman Company Long Term Disability Plan" as a
21 defendant who was believed to be the Plan entity, responsible for obligations under his
22 employer's ERISA plan for disability benefits;

23 Whereas, plaintiff is now informed and believes that the proper name of the Plan
24 entity is "The Lipman Company dba Opti-Source" ;

25 Whereas, plaintiff desires to substitute the plan entity named herein as "The
26 Lipman Company Disability Plan," with the correct Plan entity, "The Lipman Company
27 dba Opti-Source," by filing a First Amended Complaint in this action, naming the correct
28 Plan entity; and

1 Whereas, the defendant who has been served and answered in this action,
2 Unum/Provident Corporation, has no objection to the amendment proposed by this
3 Stipulation. A copy of the Proposed First Amended Complaint is lodged together
4 herewith.

5 Now, therefore, the parties stipulate and agree, subject to the Court's approval that
6 plaintiff may file a First Amended Complaint in this action.

7
8
9 DATED: 7/26, 2007

KANTOR & KANTOR, LLP

10 BY: Corinne Chandler
11 Corinne Chandler
12 Attorneys for plaintiff

13 DATED: 7/26, 2007

KELLY, HERLIHY & KLEIN, LLP

14 BY: John C. Ferry
15 Attorneys for defendant
16 John C. Ferry

17 ORDER

18 The Court having considered the Stipulation by the parties, and there appearing
19 good cause therefor, it is hereby ordered that plaintiff is granted leave to file her First
20 Amended Complaint. The previously named defendant, "The Lipman Company Long
21 Term Disability Plan" is hereby dismissed without prejudice. Plaintiff shall file and
22 serve her First Amended Complaint within ten (10) days after entry of this Order.

23
24 DATED:

25 The Honorable Wayne D. Brazil
26 U.S. District Court Magistrate Judge
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 17216 Parthenia Street, Northridge, California 91325.

On July 27, 2007, I served the foregoing document described as: STIPULATION AND [PROPOSED] ORDER FOR LEAVE TO FILE FIRST AMENDED COMPLAINT in this action by personally serving a true copy thereof addressed as follows:

John C. Ferry, Esq.
Kelly, Herlihy & Klein LLP
44 Montgomery Street, #2500
San Francisco, CA 94104-4798

(BY MAIL)

☐ I deposited such envelope in the mail at Northridge, California. The envelope was mailed with postage thereon fully prepaid.

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Northridge, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

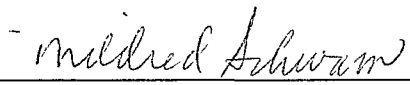
☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

☐ (BY FACSIMILE) I faxed such document to the facsimile number above following regular business practices.

☐ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 27, 2007, Northridge, California.


Mildred Schwam